IN THE HIGH COURT OF UTTARANCHAL AT NAINIAL

Writ Petition No. 184 (M/B) of 2006
(Old No. 7290 of 1988)

Bhaw Hari Lal S/o Late Sri S. Darshan Lal,
R/o 33 Tilak Road, Dehradun.

.....Petitioner

Vs.

1. Special Land Acquisition Officer, U.P. Avas Evam Viksa Parishad, Collectorate Compound, Meerut
2. U.P. Avas Evam Vikas Parishad, through Avas Ayukt, Lucknow.
3. State of Uttar Pradesh

.....Respondents

Sri L.P. Naithaini, Sr. Advocate assisted by Sri Sharad Sharma, Advocate, ld. counsel for the petitioner.
Sri K.P. Upadhyayal, ld. Standing counsel for the state
Sri K.S. Mehtal, ld. counsel for U.P. Avas Evam Vikas Parishad.

Dated: September 4, 2006

Coram: Hon'ble P.C. Verma, J.
Hon'ble M.M. Ghildiyal, J.

By means of this writ petition, the petitioners have prayed for writ of mandamus requiring the respondents to get the award delivered with regard to the petitioner's acquired land (Plot No.269 area 1.26 acres) situated in Village Jakhan, Paragan Central Dun, District Dehradun.

2. The U.P. Avas Evam Vikas Parishad acquired approximately 30.35 acres of land in Village Jakhan, Pargana Central Dun, Tehsil & Distt. Dehradun for Vikas Evam Grihsthan Yojna No.1 and notifications under Section 28 and 32 of U.P. Avas Evam Vikas Adhiniyam ***(hereinafter will be referred to as the Act)*** were published in the gazette on 15.07.1972 and 12.12.1979/21.1.1979 respectively. Thereafter, the

Special Land Acquisition Officer (SLAO) made the award on 28.3.1983. The possession of the acquired land was taken over by the Avas Evam Vikas Parishad on 28.1.1981. It has been stated in para-10 of the counter affidavit that the land of the petitioner in Khasra No.269 measuring 1.26 acres land was excluded by the SLAO as the dispute was pending under the Urban Land Ceiling Act in different courts. The Urban Land (Ceiling & Regulation) Act was repealed in the year 1999 and the repealing Act has come into force in the State of U.P. with effect from 18.03.1999. The question was whether the land in question was a vacant land to be vested in the State in That area or not? Therefore, the SLAO did not make any award in respect of this land. The SLAO has recorded a finding that since the land, dispute of which was pending before the Prescribed Authority or the appellate authority under the Urban Ceiling Act, therefore, no award was made for those lands. A chart has been given at page-6 of the award of the SLAO which contains the Plot No.269 of the petitioner measuring 1.26 acres.

3. No award was made by the SLAO in respect of the land acquired by the Avas Evam Vikas Parshad under Section 28 and 32 of the Act within a period of two years from the date of amending Act No.68 of 1984 by which Section 11-A of the Land Acquisition Act was inserted. Proviso to Section 11-A provides that after the commencement of this amending act, if the proceedings are pending and no award is made within two yeas, the notification issued under Section 4 and 6 of Land Acquisition Act, stood Lapsed.

4. Thus, no notification acquiring the land of the petitioner in Khasra No.269 measuring 1.26 acres of land

exists after expiry of period of two years i.e. after the commencement of amending Act No.68 of 1984 w.e.f. 24.9.1984.

5. Learned counsel for the petitioner submits that the possession was taken over of the land in dispute in the year 1981 and multi-story buildings have been constructed over the land of the petitioner. In view of this statement, the Avas Evam Vikas Parishad is directed to issue fresh notification under Sections 28 and 32 of the Act and make the award in accordance with law within a period of two months from the date of production of certified copy of this order.

6. With the aforesaid direction, the petition is disposed of accordingly.

(M.M. Ghildiyal, J.) **(P.C. Verma, J.)**

Rajeev Dang